

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

THIS DOCUMENT RELATES TO
ALL CLASS ACTIONS

AFFIDAVIT OF CITIZEN ACTION NEW YORK

I, Richard Kirsch, under the penalty of perjury, hereby declare as follows:

1. I am the Executive Director of Citizen Action of New York ("CANY"). We represent labor, senior citizens, women's groups, tenants and other low and moderate income New Yorkers. CANY has five member organizations, including the Communications Workers of American (District One), National Education Association (New York), Tenants and Neighbors, and United Auto Workers (Regions 9 and 9A).

2. CANY is a statewide membership organization founded in 1983. With over 6,000 individual dues-paying members, our mission is to work with community activists to promote social and economic justice.

3. Our goal is to champion quality affordable health care for all, jobs that pay living wages with reasonable benefits, expand Medicare coverage for seniors that includes affordable prescription drugs, strong investment in public education and after-school programs, clean air and water, campaign finance reform, promotion of affordable public transit, and end to corporate tax loopholes and tax breaks for the wealthy, and consumer

protections. In the area of healthcare, CANY has worked to expand health coverage programs for low and moderate income New Yorkers. We have also fought to ensure that the elderly and the disabled have affordable access to the medications they need.

4. CANY includes members who are Medicare beneficiaries and who have made co-payments, based on AWP, for pharmaceuticals. CANY also includes members who are not covered by healthcare insurance of any kind and who pay cash for some or all of their prescription medications.

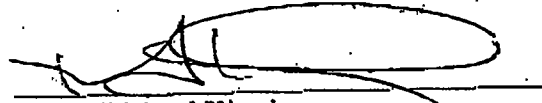
5. CANY is involved in the Pharmaceutical Average Wholesale Price litigation on behalf of our membership in order to fight against the abusive practices employed by pharmaceutical manufacturers to arbitrarily inflate the "average wholesale price" of prescription drugs covered by Medicare Part B and many others not covered by Medicare. We also join because this practice determines why certain drugs are prescribed more often than others and directly impacts the health care received by our members.

6. During the Class Period, CANY's members paid for drugs that had AWP-based transaction prices.

7. CANY appears in this action for purposes of seeking declaratory, injunctive and other non-monetary relief pursuant to 28 U.S.C. §§ 2201, 2202 § 16 of the Clayton Act and any other applicable statute.

8. CANY has been actively involved in the prosecution of this litigation and has enlisted the assistance of skilled and experienced class action counsel. CANY's interests are not antagonistic to the interests of the members of the proposed Class.

9. CANY does not have the economic ability or incentive to prosecute a case of this magnitude individually against such well-financed defendants and therefore believes that a class is a superior device.


Richard Kirsch
Executive Director